

ORDINANCE NO. 19-2004

STORMWATER ILLICIT DISCHARGE CONTROL ORDINANCE

**Section 1 – Title, Purpose and General Provisions**

**Section 1.1 – Title**

1.1.1 This article shall be known as the "Stormwater Illicit Discharge Control Ordinance" of Clark County, Indiana and may be so cited.

**Section 1.2 – Jurisdiction**

1.2.1 The Stormwater Illicit Discharge Control Ordinance shall govern all unincorporated properties within the jurisdictional boundaries of Clark County, Indiana.

**Section 1.3 – Demonstration of Need**

1.3.1 Whereas, the community's municipal separate storm sewer system (MS4) receives discharges that are not composed entirely of stormwater runoff causing increased nonpoint source pollution and receiving water degradation.

1.3.2 Whereas, surface water runoff can carry pollutants into receiving waters, and uncontrolled stormwater drainage and/or discharges may have significant adverse impacts on the health, safety and welfare of the citizens of Clark County, Indiana, the potential impacts of these pollutants and pollution may include:

1.3.2.1 Adverse impacts to public health and safety, drinking water supplies, recreation, fish and other aquatic life, property values and other land and water uses;

1.3.2.2 Changing natural ecosystems through the destruction of habitat, and the loss of plant and animal life;

1.3.2.3 Posing significant health risks through an increase in bacteria and toxic materials;

1.3.2.4 Accelerating eutrophication of receiving waters by introducing excessive nutrients;

1.3.2.5 Increasing metal deposits creating toxicity for aquatic life;

1.3.2.6 Reducing instream oxygen levels because of oil, grease and organic matter; and

1.3.2.7 Affecting animal and plant life, adversely, due to changing temperatures of receiving waters.

Original

Illicit discharge means any discharge to a Municipal Separate Storm Sewer System (MS4) that is not composed entirely of stormwater except discharges pursuant to a National Pollutant Discharge Elimination System permit (other than Clark County's NPDES stormwater permit) or otherwise defined by this ordinance.

Industrial Activity means activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit means a permit issued by the Indiana Department of Environmental Management (IDEM) under delegated authority by the United States Environmental Protection Agency (USEPA), whether the permit is applicable on an individual, group, or general area-wide basis.

Municipal Separate Storm Sewer System (MS4) means any facility designed or used for collecting and/or conveying stormwater, including, but not limited to, any roads with drainage systems, highways, streets, curbs, gutters, inlets, catch basins, piped storm drains, pumping facilities, structural stormwater controls, ditches, swales, natural and man-made or altered drainage channels, reservoirs, and other drainage structures, and which is:

- a) Owned or maintained by the (jurisdiction);
- b) Not a combined sewer; and
- c) Not part of a publicly-owned treatment works.

Non-Stormwater Discharge means any discharge to the storm drainage system that is not composed entirely of stormwater.

Person means, except to the extent exempted from this ordinance, any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, city, county or other political subdivision of the State, any interstate body or any other legal entity.

Pollutant means anything of a chemical component or nature which causes or contributes to pollution.

Pollution means the contamination or other alteration of any water's physical, chemical or biological properties by the addition of any constituent.

Premises mean any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Standard of Practice for Residential Construction Stormwater Management means a document that defines the management practices for erosion prevention, sediment control and other construction site waste management by which homebuilders may use as guidance and minimum expectations to be achieved during inspections by the Town of Clarksville. In the event that this document is not published, then the "Indiana Stormwater Quality Manual" or the "Indiana Handbook for Erosion and Sediment Control in Urban Areas" developed by Indiana Department of Natural Resources (IDNR) may be used as an equivalent guide.

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2.6 Clark County has the right to determine and impose inspection schedules necessary to enforce the provisions of this article. Inspections may include, but are not limited to, the following:

- 2.6.1 An initial inspection prior to stormwater management plan approval;
- 2.6.2 An inspection prior to burial of any underground drainage structure;
- 2.6.3 Erosion control inspections as necessary to ensure effective control of sediment prior to discharge to the municipal separate storm sewer system;
- 2.6.4 A finish inspection when all work, including installation of storm management facilities, has been completed; and
- 2.6.5 An inspection to determine the effectiveness or operational viability of a permanent or long-term stormwater quality management practice.

### **Section 3 – Illicit Discharges**

#### **3.1 Prohibition of illegal discharges**

3.1.1 Pursuant to the National Pollutant Discharge Elimination System Municipal Separate Storm Sewer System (MS4) Program, illicit discharges to the MS4 are defined as illegal. This is being done by identifying both allowable and illegal non-stormwater discharges in a manner that is in the best interest of Clark County, Indiana.

3.1.2 Except as hereinafter provided, all non-stormwater discharges into the MS4 are prohibited and declared to be unlawful.

3.1.3 It is unlawful for any Person to connect any pipe, open channel, or any other conveyance system that discharges anything except stormwater or unpolluted water, which is approved by Clark County based on exemptions listed in section 3.2 below, to the stormwater system.

3.1.4 It is unlawful for any Person to discharge waters from residential construction activities that are not complying with the Standard of Practice for Residential Construction Stormwater Management as approved and advertised by Clark County.

3.1.5 In addition to illicit discharges, the discharge of spills and the dumping and/or disposal of materials other than stormwater, including, but not limited to, industrial and commercial wastes, commercial car wash wastes, sewage, garbage, yard waste, trash, petroleum products, including used motor vehicle fluids, as well as leaf litter, grass clippings, and animal wastes into the MS4, whether directly or indirectly, are prohibited, unless authorized under a NPDES permit.

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### 3.2.1.20

Discharges within the constraints of a National Pollutant Discharges Elimination System (NPDES) permit from the Indiana Department of Environmental Management (IDEM); and

### 3.2.1.21

Discharges approved at the discretion of Clark County.

## 3.3 Illegal Discharges

3.3.1 It shall be unlawful for any Person to improperly dispose of any contaminant into the MS4. Contaminants include, but are not limited to the following:

3.3.1.1  
3.3.1.2  
3.3.1.3

Trash or debris;

Construction materials or uncontrolled sediment;

Petroleum products, including but not limited to oil, gasoline, grease, fuel oil or hydraulic fluids;

Antifreeze and other automotive products;

Metals in either particulate or dissolved form;

Flammable or explosive materials;

Radioactive materials;

Batteries, including but not limited to, lead acid automobile batteries, alkaline batteries, lithium batteries or mercury batteries;

3.3.1.8

3.3.1.9

Acids, alkalis or bases;

3.3.1.10

Paints, stains, resins, lacquers or varnishes;

3.3.1.11

Degreasers and/or solvents;

3.3.1.12

Drain cleaners;

3.3.1.13

Pesticides, herbicides or fertilizers;

3.3.1.14

Steam cleaning wastes;

3.3.1.15

Soaps, detergents or ammonia;

3.3.1.16

Swimming pool backwash including chlorinated swimming pool discharge;

3.3.1.17

Chlorine, bromine and other disinfectants;

3.3.1.18

Heated water;

3.3.1.19

Animal waste, either from domestic animals or from feeder lot operations;

3.3.1.20

Leaking sanitary sewers and connections that have remained uncorrected for more than seven (7) days;

3.3.1.21

Recreational vehicle waste;

3.3.1.22

Animal carcasses;

3.3.1.23

Food wastes;

3.3.1.24

Medical wastes;

3.3.1.25

Bark and other fibrous materials;

3.3.1.26

Collected lawn clippings leaves or branches;

3.3.1.27

Silt, sediment or gravel;

3.3.1.28

Dyes, except with permission from the Town of Clarksville;

3.3.1.29

Chemicals not normally found in uncontaminated water;

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the environment, as may be asserted by Clark County, the owner or operator of the facility shall give notice to Clark County and the IDEM as soon as practicable, but in no event later than two hours after discovery of the accidental discharge or the discharger becomes aware of the circumstances.

4.2

If an emergency response by governmental agencies is needed, the owner or operator should call 911 immediately to report the discharge. Furthermore, as required by the Indiana Spill Rule (327 IAC 2-6.1-7), reports must be made within two (2) hours of discovery. A written report must be provided to Clark County within five days of the time the discharger becomes aware of the circumstances, unless this requirement is waived by Clark County for good cause shown on a case-by-case basis, containing the following information:

4.2.1 A description of the discharge,

4.2.2 The exact dates and times of discharge, and

4.2.3 Steps being taken to eliminate and prevent recurrence of the discharge.

4.3

The discharger shall take all reasonable steps to minimize any adverse impact to the MS4 or the Waters of State, including accelerated or additional monitoring necessary to determine the nature and impact of the discharge. It shall not be a defense for the discharger in an enforcement action to claim that it would have been necessary to halt or reduce the business or activity of the facility in order to maintain water quality and minimize any adverse impact that the discharge may cause.

## **Section 5 – Enforcement**

5.1

The Person responsible for any connection in violation of this article shall immediately cause the illegal connection to be disconnected and redirected, if necessary, to Clark County's sanitary sewer system upon approval by Clark County. Such Person shall provide Clark County with written confirmation, satisfactory to Clark County or its designated representative, that the connection has been disconnected, and, if necessary, redirected to the sanitary sewer.

5.2

Any Person responsible for illicit discharges or noncompliance with BMPs at industrial and/or construction sites, and who fails to correct any prohibited condition or discontinue any prohibited activity at the order of Clark County, shall be liable to the County for expenses incurred in abating pollution. This may include expenses incurred in testing, measuring, sampling, collecting, removing, treating, and disposing of the polluting materials and preventing further noncompliance and/or illicit discharges.

5.3

Clark County may institute appropriate actions or proceedings by law or equity for the enforcement of this ordinance. Any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, and other appropriate forms of remedy or relief. Each day of noncompliance is considered a separate offense; and nothing herein contained shall prevent Clark County from taking such other lawful action as necessary to prevent or remedy

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6.3.4.2 The notice and order may be given, provided that if in the opinion of Clark County or its designated representative, the unlawful condition is such that it is of imminent danger or peril to the public, then Clark County or its designated representative may, with or without notice, proceed to abate the same, and the cost thereof shall be charged against the property. Clark County, as described further in this subsection, may recover the cost of such actions from the property owner.

6.3.5 Civil Penalties – Any Person that has been found to have been in violation of any provision of this ordinance, may be assessed a civil penalty not to exceed the amount presented in this subsection.

6.3.5.1 The penalty shall increase by twenty-five percent (25%) of the previous penalty amount for every subsequent but separate offense made by the same Person. The penalty shall be in addition to other enforcement actions of this section.

6.3.5.2 The penalty may be assessed for each day, beyond schedules applied in compliance orders or other schedules issued to the property owner or other Person responsible, for unauthorized activity defined in this ordinance.

6.3.5.3 In determining the amount of the penalty the Court shall consider the following:

- 6.3.5.3.1 The degree and extent of the harm to the natural resources, to the public health, or to the public or private property resulting from the violation;
- 6.3.5.3.2 The duration and gravity of the violation;
- 6.3.5.3.3 The effect on ground or surface water quality;
- 6.3.5.3.4 The cost of rectifying the damage;
- 6.3.5.3.5 The amount of money saved by noncompliance;
- 6.3.5.3.6 Whether the violation was committed willfully or intentionally;
- 6.3.5.3.7 The cumulative effect of other enforcement actions applied for the same offense;
- 6.3.5.3.8 The prior record of the violator in complying or failing to comply with the stormwater quality management program; and
- 6.3.5.3.9 The costs of enforcement to Clark County.

6.3.5.4 The maximum civil penalties will be determined by the type of offense. This indicates the maximum that may be imposed for a first offense and does not reflect the increases described above for repeat offenses.

6.3.5.4.1 Development without permit – \$10,000

To engage in any development, use, construction, remodeling or other activity of any nature upon land or

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6.3.7 Order to clean and abate/restore – Any violator may be required to clean and/or restore land to its condition prior to the violation.

6.3.8 Cost Recovery - If corrective action, including maintenance delinquency, is not taken in the time specified or within a reasonable time, Clark County may take the corrective action and the cost of the corrective action shall be the responsibility of the owner and/or the developer. The cost of the abatement and restoration shall be borne by the owner of the property and the cost shall be invoiced to the owner of the property. If the invoice is not paid within ninety (90) days, the enforcement official shall have the authority to place a lien upon and against the property. If the lien is not satisfied within ninety (90) days, the enforcement official is authorized to take all legal measures available to enforce the lien as a judgment, including, without limitation, enforcing the lien in an action brought for a money judgment, by delivery to the assessor or a special assessment against the property.

6.3.9 Injunctions and/or proceedings at law or in equity – Any violation of this ordinance or of any condition, order, requirement, or remedy adopted pursuant hereto may be restrained, corrected, abated, mandated, or enjoined by other appropriate proceeding pursuant to State law.

6.3.10 Fee or utility credit revocation or adjustment – This enforcement tool is intended to be available or used if there are, at any time, provisions for a funding mechanism managed by Clark County. This enforcement tool permits that credits (reductions), adjustments (increases) or other measures to modify fees or utility charges may be revoked or added, in full or in part, if any provisions of this article are violated.

6.3.11 Civil Actions – In addition to any other remedies provided in this ordinance, any violation of this ordinance may be enforced by civil action brought by Clark County's attorney. Monies recovered under this subsection shall be paid to Clark County to be used exclusively for costs associated with implementing or enforcing the provisions of this ordinance. In any such action, Clark County may seek, as appropriate, any or all of the following remedies:

6.3.11.1 A temporary and/or permanent injunction;

6.3.11.2 Assessment of the violator for the costs of any investigation, inspection or monitoring survey which lead to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection;

6.3.11.3 Costs incurred in removing, correcting or terminating the adverse effects resulting from the violation;

6.3.11.4 Compensatory damages for loss or destruction to water quality, wildlife, fish and aquatic life.

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not have the authority to permit actions by the applicant that are based on the lack of proper planning or the implementation of site development as defined in this ordinance and other measures applied to Clark County.

7.4 The Committee will be made available to review accepted requests for appeals on an as-needed basis. The decisions of the Committee are final and conclusive, but may be reviewed through the appropriate court actions. The Committee shall make its findings within five (5) business days after the appeal hearing.

7.5 Upon issuance of a decision, citation or notice of violation of this ordinance, it shall be conclusive and final, unless the accused violator submits a written notice of appeal to Clark County within ten (10) days of the violation notice being served. If Clark County does not issue a decision within ten (10) days of the written notice of appeal then the violation is considered upheld. If Clark County does not reverse the decision, the aggrieved party may appeal to the Stormwater Appeals Committee or successor, by filing a written request for hearing within ten (10) days of the Committee's decision on the appeal. The request for hearing shall state the specific reasons why the decision of Clark County is alleged to be in error and shall be accompanied by a cost bond in the amount of five hundred dollars (\$500.00) with sufficient surety to secure the costs of the appeal, including the cost of court reporters, transcripts, plan reviews and other costs.

## **Section 8 – Compatibility and Severability**

8.1 Should any article, section, subsection, clause or provision of this ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof, other than the part declared to be unconstitutional or invalid, each article, section, clause and provision being declared severable.

8.2 If any provisions of this ordinance and any other provisions of law impose overlapping or contradictory regulations, or contain any restrictions covering any of the same subject matter, that provision which is more restrictive or imposes higher standards or requirements shall govern.



ORDINANCE NO. 20 -2004

CONSTRUCTION SITE RUNOFF CONTROL ORDINANCE

**Section 1 – Title, Purpose and General Provisions**

**Section 1.1 – Title**

This article shall be known as the "Construction Site Runoff Control Ordinance" of Clark County, Indiana and may be so cited.

**Section 1.2 – Jurisdiction**

1.2.1 The Construction Site Runoff Control Ordinance shall govern all properties within the jurisdictional boundaries of Clark County, Indiana.

1.2.2 There are two scenarios for permit application and processing procedures as described by the following discussion:

1.2.2.1 For projects located within Clark County's MS4 area, the project site owner shall submit an application for a stormwater management permit to Clark County. The application will include the information specified in Sections 3 and 4 of this ordinance. Four copies of each application must be submitted to Clark County. Additionally, Clark County may require digital submittal of construction plans in an approved format. One copy of the application will be forwarded to the Soil and Water Conservation District (SWCD) for its review and comment. The remaining three copies will be reviewed by departments within Clark County.

Once all comments have been compiled from the departments and the SWCD, Clark County will place the project on the agenda of the next scheduled meeting of the Plan Commission. Clark County will furnish the applicant with a complete list of comments and objections to the plans and supporting documentation submitted by the applicant, at least 10 days prior to the scheduled meeting. Within 10 days after the meeting, Clark County will either issue a permit, or request modification to the construction plans.

The project site owner must notify Clark County and the IDEM within 48 hours prior to the commencement of construction activities via the submittal of an updated NOI. Upon completion of construction activities, stabilization of the project site and removal of all temporary erosion protection and sediment control measures, the applicant may submit a Notice of Termination (NOT) to Clark County. Clark County, or its designated representative, shall inspect the project site to verify that the requirements of the NOT have been met. Once the applicant receives a verified copy of the NOT, the applicant must forward a copy of the verified NOT to the IDEM.

1.2.2.2 For projects located only partially inside Clark County's MS4 area, the project site owner must comply with the requirements of this ordinance and may also be required to comply with 327 IAC 15-5 (Rule 5) or another MS4 community's construction site control ordinance.

- 1.3.4 Whereas, current and anticipated growth will contribute to and increase the need for an effective stormwater system.

#### **Section 1.4 – Objectives**

- 1.4.1 Protection of the short-term and long-term public health, safety, general welfare. This objective will be achieved by
  - 1.4.1.1 providing for regulation and management of Clark County's stormwater system, including public and private facilities in Clark County's service area.
  - 1.4.1.2 protecting, and preserving water quality and fish and wildlife habitat within Clark County and in downstream receiving waters.
  - 1.4.1.2.1 protecting those downstream from water quality impairment.
- 1.4.2 Compliance with state and federal stormwater regulations developed pursuant to the Clean Water Act Amendments of 1987 and subsequent amendments through 2001. The objectives of these regulations include:
  - 1.4.2.1 managing the quality of water discharged to the municipal stormwater system by controlling the contribution of pollutants associated with residential, commercial and industrial activity.
  - 1.4.2.2 controlling stormwater pollution caused by the suspension and transport of soils and other sediments.
  - 1.4.2.3 protecting or enhancing stormwater quality to a level of "designated use" and minimize the impacts from new development and/or areas of significant redevelopment.
- 1.4.3 To help maintain a stable tax base by providing for the sound use and development of flood-prone area in such a manner as to maximize beneficial use without increasing flood hazard potential or diminishing the quality of the natural stormwater resources.
- 1.4.4 Minimize damage to public facilities and utilities such as water and gas mains, electric telephone and sewer lines, streets and bridges.
- 1.4.5 Ensure the use of the public and private stormwater management system that will not result in excessive maintenance costs.
- 1.4.6 Encourage the use of natural and aesthetically pleasing designs that maximize preservation of natural areas.
- 1.4.7 Control the discharge of sediment and construction site materials into the stormwater system.
- 1.4.8 Guide the construction of stormwater management facilities by developing comprehensive master plans to address stormwater quantity and quality.

## Section 3 – Perimeter/Outfall Protection Permit

- 3.1 A *Perimeter/Outfall Protection Permit* must be issued prior to breaking ground or disturbing soil in order to install sediment control practices at the hydrologic perimeter / outfall(s) of a construction site. The permit does not give permission to the permit holder to break ground or disturb soil on the entire construction site, as is granted through the approval and issuance of a *Stormwater Quality Management Permit*.
- 3.2 A Perimeter/Outfall Protection Permit is a predecessor to a *Stormwater Quality Management Permit*. While plans for both permits are approved simultaneously, the provisions of a *Perimeter/Outfall Protection Permit* must be implemented, inspected and accepted by Clark County prior to issuance of a *Stormwater Quality Management Permit*.
- 3.3 A *Perimeter/Outfall Protection Permit* may only be issued after the review and acceptance of a Perimeter Control Plan.
- 3.4 Securing the perimeter prior to any land disturbance will decrease sedimentation off-site once construction has begun. Perimeter protection shall focus on downstream points and outfall areas and does not necessitate protection of the entire site boundary. Efforts shall be focused on those areas where water flow is most likely to exit the project site.
- 3.5 Clearing, except that necessary to establish sediment control devices shall not begin until all sediment control devices have been installed and have been stabilized. Sediment control devices prevent eroded soil from leaving the project site through the site perimeter or outfalls.
- 3.6 Contractors shall install sediment control measures and regularly inspect and maintain the facilities throughout construction.
- 3.7 Compliance with this ordinance requires that a grading plan be developed and submitted, a grading permit obtained, and a perimeter control plan be implemented before any clearing or stripping.
- 3.8 Perimeter Control Plan
  - 3.8.1 The Perimeter Control Plan shall include measures to prevent sediment from leaving the site during initial disturbance activities and prior to temporary or permanent erosion prevention and/or sediment control practices.
  - 3.8.2 The Perimeter Control Plan shall address downstream outfall points, while the Grading Plan defines site-wide erosion prevention and sediment control measures.
  - 3.8.3 The Perimeter Control Plan shall address prevention of sediment deposition on properties adjacent to the project site. Utilizing well-vegetated buffer strips along lower perimeters, sediment barriers, filters, diversion berms, sediment basins or other means accepted by Clark County may all be employed or combined to adequately protect adjacent properties.

3.8.4 Selection of sediment control measures shall consider the type of flow, site terrain, soil type, and other relevant factors. Buffer strips may only be utilized for sheet flow and must be at least, but not limited to, twenty-five (25) feet in width. If ineffective, a single sediment control device shall be supplemented with additional perimeter controls.

3.8.5 The Perimeter Control Plan shall address stabilizing construction entrances/exits to reduce the amount of sediment transported onto nearby roadways, and potentially into waterways. When crossing into a public right-of-way, alley, sidewalk, or parking lot, traffic shall first pass over a stabilized stone pad. This pad shall be at least six (6) inches thick, one-hundred (100) feet long, and contain two (2) to three (3)-inch crushed coarse graded stone. If operating under seasonally wet conditions and/or soft soils, filter fabric shall underlie the stabilized stone pad.

3.8.6 The Perimeter Control Plan shall address protection of outlets such as pipes, drains, culverts, conduits or channels by significantly minimizing erosion and sedimentation by reducing the velocity of flows from the project site. The placement of rock, grouted rip-rap, or concrete rubble at the outlet of a pipe prevents scour of the soil around the culvert mouth caused by the high pipe flow velocities. The device dissipates flow energy to produce non-erosive velocities.

### 3.9 Acceptance

3.9.1 Site inspection and approval by Clark County must be received before any land disturbance or grading may proceed.

3.9.2 Clark County shall make inspections of the site prior to the acceptance of the perimeter protection plan. Inspection will be performed within seven (7) days after the submittal of the plan and installation of the perimeter protection devices but before any disturbance or clearing has been performed. The inspector shall either approve the portion of work completed or shall notify the permittee wherein the work fails to comply with the perimeter protection plan as approved.

3.9.3 Inspection of perimeter protection BMPs shall consist of a visual check list for each type of BMP, to ensure that each was designed and installed according to site specific conditions.

3.9.4 Acceptance of the perimeter control plan and inspection of the appropriate BMPs shall compensate for and address any seasonal variations which may hinder the effectiveness of the BMPs. Seasonal variations may include changes in flow, hydrology, temperature, and vegetation. BMPs shall be designed according to these variations and appropriately to maintain a level of service.

3.10 The Indiana Department of Natural Resource's guidance documents, including the "Handbook for Erosion Control in Developing Areas, 1985" or the "Indiana Stormwater Quality Manual", should be reviewed and considered when preparing the Perimeter Control Plan.

- 4.5.1.5 Estimated dates for initiation and completion of construction activities.
- 4.5.1.6 The latitude and longitude of the approximate center of the project site to the nearest fifteen (15) seconds, and the nearest quarter section, township, range, and civil township in which the project site is located.
- 4.5.1.7 Total impervious surface area, in square feet, of the final project site including structures, roads, parking lots, and other similar improvements.
- 4.5.1.8 The number of acres to be involved in the construction activities.
- 4.5.1.9 Proof of publication of a Public Notice in a newspaper of general circulation in the affected County notifying the public that construction activities are to commence, and that states the following:
- 4.5.1.9.1 "(Company name, address) is submitting an NOI letter to notify Clark County and the Indiana Department of Environmental Management of our intent to comply with the requirements the [name of Ordinance] and the requirements of 327 IAC 15-5 and 327 IAC 15-13 to discharge stormwater from construction activities for the following project: (name of the construction project, address of the location of the construction project). Run-off from the project site will discharge to (stream(s) receiving the discharge(s))."
- 4.5.1.10 As applicable, a list of all MS4 areas designated under 327 IAC 15-13 in which the project site lies.

- 4.5.2.3.6 Location of storm, sanitary, combined sewer and septic tank systems and outfalls.
- 4.5.2.3.7 Location of regulated drains, farm drains, inlets and outfalls, if any exist of record.
- 4.5.2.3.8 Land use of all adjacent properties.
- 4.5.2.3.9 Existing topography at a contour interval appropriate to indicate drainage patterns.
- 4.5.2.4 Final project site layout, including the following information:
  - 4.5.2.4.1 Location of all proposed site improvements, including roads, utilities, lot delineation and identification, proposed structures, and common areas.
  - 4.5.2.4.2 One hundred (100) year floodplains, floodway fringes, and floodways. Please note if none exists.
  - 4.5.2.4.3 Proposed final topography at a contour interval appropriate to indicate drainage patterns.
- 4.5.2.5 A grading plan, including the following information:
  - 4.5.2.5.1 The Grading Plan shall include provisions for operation and maintenance of measures identified in the Perimeter Control Plan.
  - 4.5.2.5.2 The Grading Plan shall make clear the erosion prevention and sediment controls which are most appropriate to the specific site conditions.
  - 4.5.2.5.3 The Grading Plan shall illustrate the location and extent of erosion prevention and sediment controls.
  - 4.5.2.5.4 The Grading Plan shall include sequencing and schedule information, structural and non-structural Best Management Practices (BMPs), temporary and permanent stabilization measures.
  - 4.5.2.5.5 The Grading Plan shall include anticipated inspection and maintenance requirements for permanent and temporary measures. This shall include the expected frequency of routine inspections and maintenance activities (such as removal of sediment and construction debris)
  - 4.5.2.5.6 The Grading Plan shall include provisions for construction phasing. This shall be designed so that stripping and clearing of the site exposes only the area necessary for immediate activities and

minimizes the amount of soil exposed at any one time. This includes rough grading, construction of utilities, infrastructure and buildings, and final grading and landscaping. Phasing should identify the expected date on which clearing of the area will begin and the estimated duration of exposure. The sequence of phased clearing and the installation of temporary and permanent erosion control measures should be identified.

#### 4.5.2.5.7

The Grading Plan shall include provisions for a no-disturbance waterway buffer, including:

##### 4.5.2.5.7.1

The no-disturbance waterway buffer shall be defined as twenty-five (25) feet from the top of waterway bank as defined by geomorphic shape and not by the current water surface elevation.

##### 4.5.2.5.7.2

The no-disturbance waterway buffer shall be applied to all waterways and open-air drainage systems that drain more one-hundred (100) acres of tributary area or is presented on a United State Geological Survey map as a solid and dashed blue line stream.

#### 4.5.2.5.8

The Grading Plan shall include provisions for stabilizing denuded areas and soil stockpiles.

##### 4.5.2.5.8.1

Soil stabilization shall be designed to prevent the erosive forces of rain and water flow from washing soil from the site. Soil stabilization measures may be temporary and/or permanent and should be appropriate to the seasonal hydrology, site conditions, and estimated duration the measure will be in place.

##### 4.5.2.5.8.2

Denuded areas must be stabilized with permanent or temporary soil stabilization measures within 15 days of either achieving final grade, or within 15 days to any area that will remain dormant for over 60 days.

##### 4.5.2.5.8.3

Soil stockpiles, if left undisturbed for 15 or more days, shall be stabilized. Sediment trapping measures such as sediment traps and detention ponds shall be utilized to prevent soil loss

4.5.2.5.10.16 Other measures reviewed and accepted by Clark County, are also appropriate erosion prevention practices.

4.5.2.5.11 The Grading Plan shall include provisions for sediment control measures. Sediment control measures shall be designed to remove sediment, by settling, flocculating, filtering or other means, from storm runoff prior to discharge from the construction site. The controls may function independently or in combination with erosion prevention measures, to prevent sediment laden runoff from leaving the construction site. Acceptable sediment control practices in include:

- 4.5.2.5.11.1 Stabilized construction entrance
- 4.5.2.5.11.2 Construction entrance tire washing
- 4.5.2.5.11.3 Buffer zones
- 4.5.2.5.11.4 Check dams
- 4.5.2.5.11.5 Silt fence
- 4.5.2.5.11.6 Double layered straw bale barrier
- 4.5.2.5.11.7 Sand bag barrier
- 4.5.2.5.11.8 Brush, rock filter and continuous berms
- 4.5.2.5.11.9 Sediment traps
- 4.5.2.5.11.10 Temporary sediment / detention basin
- 4.5.2.5.11.11 Temporary inlet protection
- 4.5.2.5.11.12 Temporary outlet protection
- 4.5.2.5.11.13 Infiltration systems
- 4.5.2.5.11.14 Wet detention ponds
- 4.5.2.5.11.15 Dry detention ponds
- 4.5.2.5.11.16 Constructed wetlands
- 4.5.2.5.11.17 Biofilter swales
- 4.5.2.5.11.18 Water quality inlets and hydrodynamic separators
- 4.5.2.5.11.19 Other measures reviewed and accepted by Clark County, are also appropriate sediment control practices.

4.5.2.6 A drainage plan, including the following information:

4.5.2.6.1 An estimate of the peak discharge, based on the ten (10) year storm event, of the project site for both pre-construction and post-construction conditions.

4.5.2.6.2 Calculation showing that the peak runoff rate post-development for the 10-year and 100-year return period storms of critical duration will not exceed the 2-year and 10-year return period pre-development peak runoff rates, respectively.



4.5.2.7.5 Construction sequence describing the relationship between implementation of stormwater quality measures and stages of construction activities.

4.5.2.7.6 Anticipated inspection and maintenance requirements for permanent and temporary measures. This shall include the expected frequency of routine inspections and maintenance activities (such as removal of waste concrete)

4.5.2.7.7 A description of potential pollutant sources associated with the construction activities that may reasonably be expected to add a significant amount of pollutants to stormwater discharges, including:

4.5.2.7.7.1 Waste concrete management

4.5.2.7.7.2 Material delivery, handling and storage

4.5.2.7.7.3 Sanitary / septic waste management

4.5.2.7.7.4 Solid waste / trash and debris management

4.5.2.7.7.5 Spill prevention control and countermeasures

4.5.2.7.7.6 Vehicle and equipment cleaning, fueling and maintenance

4.5.2.7.7.7 Sensitive and vegetated area preservation

4.5.2.7.8 Material delivery, handling and storage associated with construction activities shall meet the spill prevention and spill response requirements of 327 IAC 2-6.1.

4.5.2.7.9 The SWPPP must include provisions for addressing the following issues as applicable to the site-specific construction activities:

4.5.2.7.10 Dewatering operations

4.5.2.7.11 Contaminated soil management

4.5.2.7.12 Hazardous materials and waste management

4.5.2.7.13 Pesticides, herbicides and fertilizer use

4.5.2.7.14 Collection system maintenance

## 4.6 Requirements for Individual Lots

4.6.1 Although no permit is required for individual lots disturbing less than 1 acre within a larger permitted project, a formal stormwater review will be required prior to the issuance of a building permit. All stormwater management measures necessary to comply with this ordinance must be implemented in accordance with the permitted plan for the larger project.

4.6.2 Clark County requires individual lot operators, whether owning the property or acting as the agent of the property owner, to submit the following information for review and approval, prior to the issuance of a building permit.

4.6.3 A site location plan showing the individual lot and all adjacent lots dimensions, elevations, drainage patterns and swales.

4.6.4 An erosion and sediment control plan that, at a minimum, includes the following measures:

4.6.4.1 Installation and maintenance of a stable construction site access.

4.6.4.2 Installation and maintenance of appropriate perimeter erosion and sediment control measures prior to land disturbance.

4.6.4.3 Sediment discharge and tracking from each lot must be minimized throughout the land disturbing activities on the lot until permanent stabilization has been achieved.

4.6.4.3.1 Clean-up of sediment that is either tracked or washed onto roads. Bulk clearing of sediment shall not include flushing the area with water. Cleared sediment must be redistributed or disposed of in a manner that is in compliance with all applicable statutes and rules.

4.6.4.3.2 Adjacent lots disturbed by an individual lot operator must be repaired and stabilized with temporary or permanent surface stabilization.

4.6.4.3.3 Self-monitoring program, including a plan and procedures.

4.6.4.4 Certification of Compliance stating that the individual lot plan is consistent with the stormwater management permit approved by Clark County for the larger project.

4.6.4.5 The individual lot operator is responsible for the installation and maintenance of all erosion and sediment control measures until the site is stabilized.

owners do not need to submit an NOI letter or NOT letter. The notice must contain a verified statement that each of the conditions in subsection 4.9.2.1.1 have been met. The notice must also inform the individual lot owners of the requirements to:

4.7.2.4.1 install and maintain appropriate measures to prevent sediment from leaving the individual building lot; and

4.7.2.4.2 maintain all erosion and sediment control measures that are to remain on-site as part of the construction plan.

4.7.2.5 The SWCD, DNR-DSC, other entity designated by the department or a regulated MS4 entity, or the department may inspect the project site to evaluate the adequacy of the remaining storm water quality measures and compliance with the NOT letter requirements. If the inspecting entity finds that the project site owner has sufficiently filed an NOT letter, the entity shall forward notification to the department. Upon receipt of the verified NOT letter by the department and receipt of written approval from the department, the project site owner shall no longer be responsible for compliance with this rule.

4.7.2.6 After a verified NOT letter has been submitted for a project site, maintenance of the remaining storm water quality measures shall be the responsibility of the individual lot owner or occupier of the property.

4.7.3 A Stormwater Quality Management Permit shall be considered open and active until a time when Clark County accepts the site conditions and as-built requirements have been completed.

4.7.4 Acceptance of site conditions shall be made by Clark County or its designated representative based upon an inspection. If any of the following items are deemed to be insufficient, not appropriate and/or inconsistent with the Grading Plan, Stormwater Pollution Prevention Plan or objectives stated in this ordinance the approval will not be granted.

4.7.4.1 Pipes, channels, catch basins, water quality treatment devices and other infrastructure are clear of sediment, obstructions and debris, and are designed and operating as appropriate for final site conditions.

4.7.4.2 Slopes are permanently stabilized.

4.7.4.3 Temporary erosion prevention or sediment control devices (such as silt fence and staking, outlet protection, etc.) have been removed (as appropriate) and any resulting soil disturbance stabilized.

4.7.4.4 Temporary pollution prevention practices have been demobilized or removed and affected areas stabilized.

## Section 5 – Inspections and Maintenance

### 5.1 Permittee Performed Inspections and Maintenance

#### 5.1.1 Permittee Performed Inspections (Self Inspections) must be performed by a Qualified Professional.

5.1.2 Inspections shall be performed at all control measures every fourteen (14) days and within twenty-four (24) hours of a one quarter (0.25) inch rain event. The inspections will determine the overall effectiveness of the Grading and Stormwater Pollution Prevention Plans, needed maintenance activities and the need for additional control measures.

5.1.3 All inspections shall be documented in written form and made available to Clark County or submitted at the time interval specified in the approved permit.

5.1.4 Inspections shall be performed consistent with specific visual maintenance checklists approved by *Clark County*.

5.1.5 Documentation of permittee performed inspections and inspection findings shall be kept on site, if appropriate facilities (such as a project trailer or building) are available. In the event, that appropriate facilities are not available then a copy of the most recent inspection shall be displayed at the site along with other documents that must be displayed to the public per other local, state and federal regulations.

5.1.6 Documentation of permittee performed inspections and inspection findings shall be made available within three (3) days of a request by Clark County or designated agent. Failure to post or timely submit documentation as requested will be assumed to indicate that inspections were not performed and may result in corresponding enforcement procedures.

5.1.7 Inspection documentation reports shall include, but are not limited to:

5.1.7.1 The address of the site.

5.1.7.2 The parcel identification number.

5.1.7.3 The name of the owner or owner's agent.

5.1.7.4 The location of the stormwater system(s).

5.1.7.5 A description of the current operational or functional status of the stormwater system(s). For sediment control structures, an indication of used and remaining, capacity (fraction, percentage, depth or volume) shall be given to identify when the control must be cleaned out.

5.1.7.6 Identification of any necessary repairs, sediment/debris removal or replacement of all or portions of the stormwater system(s).

5.2.6 Clark County or its designated agent may develop and require the implementation of an action plan to prevent the premature system failure that exceeds the Stormwater Quality Management Permit provisions, but are necessary to prevent stormwater pollution from leaving the site.

## 5.3 Maintenance

5.3.1 Maintenance must be performed under the direction and/or supervision of a Qualified Professional.

5.3.2 Maintenance of erosion prevention, sediment control and pollution prevention practices shall be performed according to the Grading and Pollution Prevention Plans.

5.3.3 Maintenance activities shall be performed in accordance with action plans developed through the course of permittee performed inspections. This may represent activities that exceed provisions of the Grading and Pollution Prevention Plans, but are necessary to prevent stormwater pollution from leaving the site.

## 5.4 Qualified Professional Registration and Certification

5.4.1 A Qualified Professional is required to perform routine inspections and direct and/or supervise maintenance activities to ensure that the Stormwater Quality Management Permit provisions are being implemented properly.

5.4.2 All Qualified Professionals performing inspections or overseeing maintenance activities under this Ordinance must be registered with Clark County and certified prior to execution of those actions. All applicants must file an application with Clark County. Applicants must demonstrate knowledge of 1.) construction practices, 2.) operational standards, 3.) cause and failure indicators and 4.) maintenance measures used to prevent and correct failures.

5.4.3 Clark County reserves the right to require that Qualified Professional applicants pay a registration fee.

5.4.4 Clark County reserves the right to require that Qualified Professional applicants satisfactorily complete a training course approved by Clark County.

5.4.5 Clark County reserves the right to require that Qualified Professional applicants be re-certified as often as every five (5) years.

5.4.6 Clark County reserves the right to require that Qualified Professional applicants successful pass a written exam covering construction practices, operational standards, causes and indicators of stormwater quality management system failures and corrective actions as approved by Clark County.

6.1 Clark County may institute appropriate actions or proceedings at law or equity for the enforcement of this Ordinance. Any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, and other appropriate forms of remedy or relief.

6.2 Each day of noncompliance is considered a separate offense; and nothing herein contained shall prevent Clark County from taking such other lawful action as is necessary to prevent or remedy any violation, including application for injunctive relief.

6.3 Any of the following enforcement remedies and penalties shall be available to Clark County in response to violations of this ordinance. If the person, property or facility has or is required to have a stormwater discharge permit from the Indiana EPA, Clark County shall alert the appropriate state authorities of the violation.

6.3.1 Notice of Violation (NOV) –Whenever designated Clark County staff find that any person, company or facility owning or occupying a premises has violated or is violating this Ordinance or order issued hereunder, the enforcement official may serve, by personal service, or by registered or certified mail, upon said person a written NOV. Within thirty (30) days of the receipt of this notice, or shorter period as may be prescribed in the NOV, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, which shall include specific required actions, shall be submitted to Clark County or its designee. Submission of this plan shall in no way relieve liabilities for violations occurring before or after receipt of the NOV.

6.3.2 Revocation of permit – Clark County, or its designee may revoke and require the return of a permit or certificate by notifying the permit holder in writing, stating the reason for the revocation. Permits or certificates shall be revoked for any substantial departure from the approved application plans, or specifications, refusal or failure to comply with the requirements of state or local law, or for false statements or misrepresentations made in securing the permit or certificate. Any permit or certificate mistakenly issued in violation of any applicable state or local law may also be revoked.

6.3.3 Compliance order -- If any person, company or facility shall violate the provisions of this ordinance, Clark County, or its designee, may give notice to the owner or to any person in possession of the subject property, ordering that all unlawful conditions existing thereupon be abated within a schedule defined from the date of such notice.

6.3.3.1 The enforcement official shall have the authority to establish elements of a stormwater pollution prevention plan, and to require any business to adopt and implement such a plan, as may be reasonably necessary to fulfill the purposes of this chapter. The enforcement official may establish the requirements of Best Management Practices for any premises.

6.3.3.2 The notice and order may be given provided, that if, in the opinion of Clark County or its designee, the unlawful condition is such that it is of imminent danger or peril to the public, then

other forms of authorization as set forth in this ordinance.

6.3.4.4.2 Development inconsistent with permit – \$5,000 To engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with any approved plan, permit, certificate, or other form of authorization granted for such activity.

6.3.4.4.3 Violation by act or omission – \$5,000  
To violate, by act or omission, any term, variance, modification, condition, or qualification placed by Clark County or its agent departments upon any required permit, certificate, or other form of authorization of the use, development, or other activity upon land or improvements thereon.

6.3.4.5 In the event there are penalties assessed by the State against Clark County caused by any person, company or construction site or facility, the said shall be assessed the equivalent amount of civil penalty. This shall include, but is not limited to penalties for improper disposal or illegal dumping, or illicit connection into the municipal separate storm sewer system.

6.3.5 Administrative fee – Any person, company or facility who undertakes any development activity requiring a stormwater management plan hereunder without first submitting the plan for review and approval shall pay to Clark County, in addition to any permit or inspection fee, an administrative fee of up to \$5,000.

6.3.6 Order to clean and abate / restore – Any violator may be required to clean and/or restore land to its condition prior to the violation.

6.3.7 Cost recovery - If corrective action, including maintenance delinquency, is not taken in the time specified, or within a reasonable time, if no time is specified, Clark County may take the corrective action, and the cost of the corrective action shall be the responsibility of the owner and/or the developer. The cost of the abatement and restoration shall be borne by the owner of the property and the cost therefore shall be invoiced to the owner of the property. If the invoice is not paid within ninety (90) days, the enforcement official shall have the authority to place a lien upon and against the property. If the lien is not satisfied within ninety (90) days, the enforcement official is authorized to take all legal measures as are available to enforce the lien as a judgment, including, without limitation, enforcing the lien in an action brought for a money judgment, by delivery to the assessor or a special assessment against the property.

6.3.8 Injunctions and/or proceedings at law or in equity – Any violation of this Ordinance or of any condition, order, requirement, or remedy adopted pursuant hereto may be restrained, corrected, abated, mandated, or enjoined by other appropriate proceedings pursuant to state law.

lack of proper planning or implementation of site development as defined in this ordinance and other measures applied to Clark County.

7.3

The Committee will be made available to review accepted request(s) for appeals on an as-needed basis. The decisions of the Committee are final and conclusive, but may be reviewed through the appropriate court actions. The Committee shall make its findings within five (5) business days after the appeal hearing.

7.4

Upon issuance of a decision, citation or notice of violation of this article it shall be conclusive and final unless the accused violator submits a written notice of appeal to Clark County within ten (10) days of the violation notice being served. If Clark County does not issue a decision within ten (10) days of the written notice of appeal then the violation is considered upheld. If Clark County does not reverse the decision, the aggrieved party may appeal to the Stormwater Appeals Committee or successor, by filing a written request for hearing within ten (10) days of Clark County's decision on the appeal. The request for hearing shall state the specific reasons why the decision of Clark County is alleged to be in error, and shall be accompanied by a cost bond in the amount of five hundred dollars (\$500.00) with sufficient surety to secure the costs of the appeal, including the cost of court reporters, transcripts, plan reviews and other costs.

## **Section 8 - Severability**

8.1

Should any article, section, subsection, clause or provision of this Ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part declared to be unconstitutional or invalid, each article, section clause and provision being declared severable.

8.2

If any provisions of this Ordinance and any other provisions of law impose overlapping or contradictory regulations, or contain any restrictions covering any of the same subject matter, that provision which is more restrictive or imposes higher standards or requirements shall govern.